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Ozgur C. Leonard

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2055 GATEWAY PLACE

SUITE 550

SAN JOSE, CA 95110-1089

EXAMINER

WAI, ERIC CHARLES

ART UNIT

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2195

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/762,067	LEONARD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ERIC C. WAI	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date  | 6) <input type="checkbox"/> Other: _____                          |

9/5/08, 4/29/08, 12/21/07, 9/18/2007, 7/23/07, 9/25/06, 4/18/06, 1/10/06, 9/29/05, 9/6/05, 11/29/04, 5/21/04, 4/26/04.



### **DETAILED ACTION**

1. Claims 1-36 are presented for examination.

#### ***Information Disclosure Statement***

2. The information disclosure statements filed 07/17/2008 and 10/04/2004 fail to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 13-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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5. Claims 13-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a signal directly or indirectly by claiming a medium and the Specification recites evidence where the machine readable medium is defined as a "wave" (such as a carrier wave). In that event, the claims are directed to a form of energy which at present the office feels does not fall into a category of invention. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)

6. Claims 25-36 recites an "apparatus"; however, it appears that the system would reasonably be interpreted by one of ordinary skill in the art as software, per se, failing to be tangibly embodied or include any recited hardware as part of the system. Applicant is advised to add a "processor" and "memory" to overcome this rejection.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The following terms lack antecedent basis in the claims:

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- i. Claims 8, 20, and 82, line 4, "the third process".

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kassan et al. (US Pat No. 7,194,439).

11. Regarding claim 1, Kassan teaches a machine-implemented method, comprising:

in response to an ending of execution of a first process that executed in a first virtual operating system environment (VOSE) of a plurality of VOSEs controlled by a single operating system kernel instance, determining in which VOSE of the plurality of VOSEs the first process executed (col 1 lines 28-46, wherein logical partitions are equivalent to VOSEs; col 4 lines 46-59, wherein an LOS can have multiple partitions); and

in response to determining that the first process executed in the first VOSE, recording, in a first system accounting log file (SALF), first accounting information about the first process (col 1 lines 44-60).

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12. Kassan does not teach that the SALF is stored in a first file system partition associated with the first VOSE. Kassan teaches that the information is recorded in a system management facility data file (col 1 lines 61-64). Kassan also teaches that sometimes the LOS performs the recording of information (col1 lines 36-42). It would have been obvious to one of ordinary skill in the art at the time of the invention that the SALF be stored in a first file system partition associated with the first VOSE. One would be motivated by the desire to store accounting information pertaining to the first VOSE on the first VOSE.

13. Regarding claim 2, Kassan teaches further comprising:

in response to determining that the first process executed in the first VOSE, determining, based on first accounting settings that are associated with the first VOSE, one or more specified accounting information aspects of a plurality of accounting information aspects (col 1 lines 47-51);

wherein recording the first accounting information comprises recording aspects of accounting information that correspond to the one or more specified accounting information aspects (col 1 lines 61-64).

14. Regarding claims 3-4, Kassan does not teach further comprising:

in response to an invocation of an accounting settings updating function by a second process that is executing in the first VOSE, determining in which VOSE of the plurality of VOSEs the second process is executing; and

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in response to determining that the second process is executing in the first VOSE, updating the first accounting settings;

wherein the accounting settings updating function is implemented by the operating system kernel instance;

wherein processes that do not execute in the first VOSE are prevented from updating the first accounting settings.

15. Kassan does not teach the ability to update accounting settings. Kassan teaches that the type of accounting information applicable to a job can but platform or installation specific (col 1 lines 47-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kassan by including a second process to modify the accounting settings that are logged to the files. One would be motivated by the desire to have the ability to change the type of information that is stored.

16. Regarding claim 5, Kassan does not teach that the first SALF is not accessible by any processes that execute in any VOSE other than the first VOSE. However, it would have been obvious to one of ordinary skill in the art to include such a limitation. One of ordinary skill would realize that Kassan is directed to the partitioning or separation of different operating systems environment. Therefore, only processes executing in the first VOSE would have access to the SALF.

17. Regarding claim 6, Kassan further comprising:



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in response to an ending of execution of a second process that executed in a second VOSE of the plurality of VOSEs, determining in which VOSE of the plurality of VOSEs the second process executed (col 1 lines 28-42, wherein information relating to all processes executing on the system is recorded); and

in response to determining that the second process executed in the second VOSE, recording, in a SALF, second accounting information about the second process (col 1 lines 61-64);

wherein the first VOSE is separate from the second VOSE (col 1 lines 28-46, wherein logical partitions are equivalent to VOSEs; col 4 lines 46-59, wherein an LOS can have multiple partitions).

18. Kassan does not teach that the SALF is stored in a second file system partition associated with the second VOSE. Kassan teaches that the information is recorded in a system management facility data file (col 1 lines 61-64). Kassan also teaches that sometimes the LOS performs the recording of information (col1 lines 36-42). It would have been obvious to one of ordinary skill in the art at the time of the invention that the SALF be stored in a second file system partition associated with the second VOSE. One would be motivated by the desire to store accounting information pertaining to the second VOSE on the second VOSE.

19. Regarding claim 7, Kassan teaches, further comprising:

in response to determining that the first process executed in the first VOSE, determining, based on first accounting settings that are associated with the first VOSE,

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one or more first specified accounting information aspects of a plurality of accounting information aspects (col 1 36-42, wherein it is inherent that information to be logged be determined); and

in response to determining that the second process executed in the second VOSE, determining, based on second accounting settings that are associated with the second VOSE, one or more second specified accounting information aspects of the plurality of accounting information aspects (col 1 36-42, wherein it is inherent that information to be logged be determined);

wherein recording the first accounting information comprises recording aspects of accounting information that correspond to the one or more first specified accounting information aspects (col 1 lines 61-64);

wherein recording the second accounting information comprises recording aspects of accounting information that correspond to the one or more second specified accounting information aspects (col 1 lines 61-64).

20. Kassan does not explicitly teach that the one or more first specified accounting information aspects are separate from the one or more second specified accounting information aspects. Kassan does teaches that the type of accounting information applicable to a job can but platform or installation specific (col 1 lines 47-50). Therefore, it would have been obvious to one of ordinary skill that Kassan is capable of specifying separate accounting information.

21. Regarding claim 8, Kassan does not teach further comprising:

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in response to an invocation of an accounting settings updating function by a second process that is executing in the first VOSE, determining in which VOSE of the plurality of VOSEs the third process is executing;

in response to determining that the third process is executing in the first VOSE, updating the first accounting settings;

in response to an invocation of the accounting settings updating function by a fourth process that is executing in the second VOSE, determining in which VOSE of the plurality of VOSEs the fourth process is executing; and

in response to determining that the fourth process is executing in the second VOSE, updating the second accounting settings;

wherein the accounting settings updating function is implemented by the operating system kernel instance; and

wherein the first accounting settings are separate from the second accounting settings.

22. Kassan does not teach the ability to update accounting settings. Kassan teaches that the type of accounting information applicable to a job can but platform or installation specific (col 1 lines 47-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kassan by including a second process to modify the accounting settings that are logged to the files. One would be motivated by the desire to have the ability to change the type of information that is stored.

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23. Regarding claim 9, Kassan teaches in response to the ending of execution of the first process, recording, in a second SALF stored in a file system that is associated with a global operating system environment (OSE) that comprises the plurality of VOSEs, second accounting information about the first process; wherein the second SALF is separate from the first SALF (col 1 line 65 to col 2 line 5, wherein different information can be logged to different files).

24. Regarding claim 10, Kassan teaches, further comprising:

in response to determining that the first process executed in the first VOSE, determining, based on first accounting settings that are associated with the first VOSE, one or more first specified accounting information aspects of a plurality of accounting information aspects (col 1 lines 46-51); and

determining, based on second accounting settings that are associated with the global OSE, one or more second specified accounting information aspects of the plurality of accounting information aspects (col 2 lines 2-5);

wherein recording the first accounting information comprises recording aspects of accounting information that correspond to the one or more first specified accounting information aspects (col 1 lines 61-64);

wherein recording the second accounting information comprises recording aspects of accounting information that correspond to the one or more second specified accounting information aspects (col 2 lines 2-5); and

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wherein the one or more first specified accounting information aspects are separate from the one or more second specified accounting information aspects (col 2 lines 5-11, wherein the information can be written to separate files).

25. Regarding claim 11, Kassan does not teach further comprising:

in response to an invocation of an accounting settings updating function by a second process that is executing in the first VOSE, determining in which of the global OSE and the plurality of VOSEs the second process is executing;

in response to determining that the second process is executing in the first VOSE, updating the first accounting settings;

in response to an invocation of the accounting settings updating function by a third process that is executing in the global OSE, determining in which of the global OSE and the plurality of VOSEs the third process is executing; and

in response to determining that the third process is executing in the global OSE, updating the second accounting settings;

wherein the first accounting settings are separate from the second accounting settings; and

wherein the accounting settings updating function is implemented by the operating system kernel instance.

26. Kassan does not teach the ability to update accounting settings. Kassan teaches that the type of accounting information applicable to a job can but platform or installation specific (col 1 lines 47-50). It would have been obvious to one of ordinary skill in the art

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at the time of the invention to modify Kassan by including a second process to modify the accounting settings that are logged to the files. One would be motivated by the desire to have the ability to change the type of information that is stored.

27. Regarding claim 12, Kassan teaches that the second accounting information indicates an identity of a VOSE in which the first process executed (col 1 lines 44-60).

28. Regarding claims 13-36, they are the machine-readable medium and apparatus claims of claims 1-12 above. Therefore they are rejected for the same reasons as claims 1-12 above.

### ***Conclusion***

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC C. WAI whose telephone number is (571)270-1012. The examiner can normally be reached on Mon-Fri, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng - Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195

/Eric C Wai/  
Examiner, Art Unit 2195